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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,999	10/25/2005	Junya Fujii	072444	5954

38834      7590      01/22/2008  
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WASHINGTON, DC 20036

EXAMINER
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SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
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3677

MAIL DATE	DELIVERY MODE
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01/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/531,999	FUJII ET AL.
Examiner	Art Unit	
Robert J. Sandy	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 November 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 and 5-12 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 5-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08 November 2007 has been entered.

This is a non-final Office action responsive to the reply filed on 08 November 2007

- Claims 1, and 5-11 were amended.
- Claims 2-4 have been canceled.
- Claims 1 and 5-12 are pending.
- A replacement Abstract has been excepted for entry.

### *Claim Objections*

Claim 7 is objected to because of the following informalities: In claim 7, the phrase "to elastic member" should be changed to read as - - to the elastic member - -. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, and 5-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Olson (U.S. Patent No. 5,123,146, cited by applicant).

Olson ('146) discloses a clip (10, see figs. 1-7), comprising:

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a first clipping arm (11) and a second clipping arm (12) capable of pressing and holding therebetween a clipped object constituted of a flexible hollow member, thereby forming an independent, separate space in the clipped object

a latching portion having a male member (20a, 20b) disposed on a first end of the first clipping arm, and a female member (structure defining opening 31, including 31c) to engage with the male member, the female member being disposed on the first end of the second clipping arm, and

a latching releaser (15, 32) connected to either the male member or the female member to which latching releasing force is applied in an outward direction to release engagement between the male member and the female member,

wherein the male member or the female member is disposed on a tip end of an elastic member (structure defining point X) having a supporting point (point of structure X nearest 32) so that the male member or the female member is movable to a disengaged position to release the latching portion;

(concerning claim 5) the latching releaser and the latching portion are integrally molded;

(concerning claim 6) the latching releaser, the latching portion and the first and the second clipping arms are integrally molded;

(concerning claim 7) the latching releaser is a band shaped elastic piece whose tip end is bound to the elastic member of the latching means;

(concerning claim 8) the latching releaser is comprised of a pull-tab (structure defining free end portion of 15) integrally molded with the band shaped elastic piece bound to elastic member of the latching means;

(concerning claim 9) the latching releaser is comprised of a thread-like article (structure defining member 15 is thread-like as being *narrow like a thread*) or a thread-like article bound to an elastic piece of the latching portion;

(concerning claim 10) the first clipping arm and the second clipping arm are pivotally connected at a second end (at 13); and

(concerning claim 11) the first clipping arm and the second clipping arm are pivotally connected by a hinge portion (13) integrally molded with at least one of the first clipping arm or the second clipping arm at the second end.

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[Examiner's note concerning claims 5, 6, 8 and 11, where each of these claims are directed to a product-by-process claim wherein the process relied upon results in an "integrally molded" feature as recited in each of the respective claims. These limitations to an integrally molded feature has not given an patentable weight since the structural limitations of the claimed product are met. And, therefore it has been held that if the product defined in the product-by-process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made from a different process. See *In re Thorpe*, 77 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985).]

### *Claim Rejections - 35 USC § 103*

Claim 12, so far as definite, is rejected under 35 U.S.C. 103(a) as being unpatentable over Olson ('146) in view of Oh et al. (U.S. Patent No. 4, 834,096). Olson. ('146) discloses the claimed clip except for wherein at least the clipping arm is comprised of a resin made by mixing a glass fiber into a polyoxymethylene resin. However, Oh et al. ('096) discloses a clip made from "polyoxymethylene" (col. 9, line 26). Therefore, it would have been obvious to one of ordinary skill in the art to have manufactured the clip of Olson ('133) from a polyoxymethylene resin, as suggested by Oh et al. ('096), since Oh et al. ('096) recognizes that polyoxymethylene is a preferable suitable plastic material among "many relatively strong engineering plastics" when molding clip portions of "a single integral piece of molded plastic." (col. 9, lines 20-23).

### *Response to Arguments*

Applicant's arguments with respect to claims 1, and 5-12 have been considered but are moot in view of the new ground(s) of rejection, necessitated by applicant's amendment, and further in view of applicant's submission of U. S. Patent No. 5,123,146 (Olson) in the Information Disclosure Statement filed on 19 September 2007.

In view of applicant's amendment to the abstract, the objection to the abstract of the disclosure indicated in the prior Office action, mailed 8/15/2007, has been withdrawn.

In view of applicant's cancellation of claim 4, the objection and rejection under 35 U.S.C. § 112, first paragraph, indicated in the prior Office action has been withdrawn.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert J. Sandy/  
Primary Examiner, Art Unit 3677